



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 7330-02
26 August 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: MAJ [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 1 May 02 w/attachments
(2) HQMC MMER memo dtd 13 Aug 02 w/encl
(3) HQMC MMOA-4 memo dtd 13 Aug 02
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the fitness report for 18 June to 25 September 1992, a copy of which is at Tab A to enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed removal of the contested fitness report. Petitioner further requested removal of his failure of selection before the Fiscal Year (FY) 2003 Lieutenant Colonel Selection Board, so as to be considered by the FY 2004 Lieutenant Colonel Selection Board, scheduled to convene on 9 October 2002, as an officer who has not failed of selection to lieutenant colonel. Finally, he requested remedial consideration for promotion.

2. The Board, consisting of Messrs. Agresti, McBride and Shy, reviewed Petitioner's allegations of error and injustice on 21 August 2002, and pursuant to its regulations, determined that the limited corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request to strike his failure of selection for promotion has commented to the effect that this request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting limited relief, specifically, removal of Petitioner's failure of selection for promotion.

The Board finds Petitioner's request for consideration by a remedial promotion board should be denied. In this regard, they note that the next regular promotion board is scheduled to convene soon, on 9 October 2002. Further, they find that his consideration by a regular promotion board, with a corrected fitness report record and status as not having failed of selection, will provide him adequate relief.

In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

d. That Petitioner's request for remedial consideration for promotion be denied.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7330-02

IN REPLY REFER TO:
1610
MMER
13 Aug 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]
[REDACTED], USMC

- Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 9 Aug 02
(2) CMC Advisory Opinion 1610 MMOA-4 of 13 Aug 02
(3) Copy of CMC ltr 1610 MMER/PERB of 13 Aug 02

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED] official military record, the fitness report for the period 920618 to 920925 (TR).

2. We defer to BCNR on the [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.

3. By enclosure (3), this Headquarters provided [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
 HEADQUARTERS UNITED STATES MARINE CORPS
 3260 RUSSELL ROAD
 QUANTICO, VIRGINIA 22134-5103

7330-02

IN REPLY REFER TO:
 1610
 MMR/PERB
 AUG 9 2002

From: Commandant of the Marine Corps
 To: Major [REDACTED] USMC
 [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
25 Sep 92	[REDACTED]	920618 to 920925 (TR)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]
 By direction



IN REPLY REFER TO:

1600
MMOA-4
13 Aug 02

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: BCNR PETITION FOR MAJOR [REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Major [REDACTED] USMC
of 9 Aug 02.

1. Recommend approval of Major [REDACTED]'s request for removal of his failure of selection.

2. Per the reference, we reviewed [REDACTED] record and petition. Major [REDACTED] failed selection on the 1903 USMC Lieutenant Colonel Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) to remove the Transfer report from 920618 to 920925. [REDACTED] requests removal of his failure of selection.

3. In our opinion, the favorable PERB action does increase the competitiveness of the record. But with the petitioned report removed, Major [REDACTED] record still contains considerable competitive jeopardy in the following areas:

a. **Relative Value.** Major [REDACTED] Relative Values remain below those of his peers being selected for promotion. His Cumulative Relative Values of 80.00, 80.00, 90.61, 90.61, and 95.30 indicate a mid-pack performance and remain a competitive concern.

b. **Reviewing Officer Comparative Assessment.** Major [REDACTED] Reviewing Officer Comparative Assessments remain a competitive concern. On the 990201 to 990719 report, [REDACTED] marked him in the 3 block with zero marked below him and 29 marked above him. On the 990816 to 000731 report, [REDACTED] marked him in the 4 block with two marked below him and 22 marked above him.

c. **Comments from Col Turner.** The comments on Major [REDACTED]'s first two reports reviewed by [REDACTED] remain competitive concerns.

Subj: BCNR PETITION FOR MA [REDACTED]
USMC

4. In summary, the favorable PERB action did change the competitiveness [REDACTED] record. Though we recognize his record contains other areas of competitive concern, we believe [REDACTED] should be afforded the benefit of the doubt and recommend approval of his request for removal of his failure of selection.

5. POC [REDACTED]

[REDACTED]

Lieutenant Colonel, USMC
Head, Officer Counseling and
Evaluation Section
Personnel Management Division